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FILED  
STATE OF CALIFORNIA  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
SACRAMENTO, CA September 12, 2012  
BY C. Yuramento ANALYST

8 BEFORE THE  
9 PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues  
Against:

Case No. 1D 2012 71663

12 ROBERT EDMUND KIBBY II  
13 1910 West El Segundo Boulevard #1  
14 Gardena, California 90249

STATEMENT OF ISSUES

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Rebecca Marco (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Physical Therapy Board of California (Board),  
21 Department of Consumer Affairs.

22 2. On or about December 7, 2011, the Board received an application for a physical  
23 therapist assistant license from Robert Edmund Kibby II (Respondent). On or about December 6,  
24 2011, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,  
25 and representations in the application. The Board denied the application on May 22, 2012.

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## JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2609 of the Code states:

"The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter."

5. Section 2636 of the Code states:

"(a) Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing the following examinations:

"(1) An examination under the direction of the board to demonstrate the applicant's knowledge of the laws and regulations related to the practice of physical therapy in California. The examination shall reasonably test the applicant's knowledge of these laws and regulations.

"(2) The national physical therapy examination for the applicant's licensure category. The examination for licensure as a physical therapist shall test entry-level competence to practice physical therapy. The examination for licensure as a physical therapist assistant shall test entry-level competence to practice as a physical therapist assistant in the technical application of physical therapy services."

6. Section 2660 of the Code states:

"The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(a) Advertising in violation of Section 17500.

"(b) Fraud in the procurement of any license under this chapter.

"(c) Procuring or aiding or offering to procure or aid in criminal abortion.

1       "(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties  
2 of a physical therapist or physical therapist assistant. The record of conviction or a certified copy  
3 thereof shall be conclusive evidence of that conviction.

4       "(e) Habitual intemperance.

5       "(f) Addiction to the excessive use of any habit-forming drug.

6       "(g) Gross negligence in his or her practice as a physical therapist or physical therapist  
7 assistant.

8       "(h) Conviction of a violation of any of the provisions of this chapter or of the Medical  
9 Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting  
10 the violating of, or conspiring to violate any provision or term of this chapter or of the Medical  
11 Practice Act.

12       "(i) The aiding or abetting of any person to violate this chapter or any regulations duly  
13 adopted under this chapter.

14       "(j) The aiding or abetting of any person to engage in the unlawful practice of physical  
15 therapy.

16       "(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related  
17 to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

18       "(l) Except for good cause, the knowing failure to protect patients by failing to follow  
19 infection control guidelines of the board, thereby risking transmission of blood-borne infectious  
20 diseases from licensee to patient, from patient to patient, and from patient to licensee. In  
21 administering this subdivision, the board shall consider referencing the standards, regulations, and  
22 guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the  
23 Health and Safety Code and the standards, regulations, and guidelines pursuant to the California  
24 Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division  
25 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne  
26 pathogens in health care settings. As necessary, the board shall consult with the Medical Board  
27 of California, the California Board of Podiatric Medicine, the Dental Board of California, the  
28 Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians

1 of the State of California, to encourage appropriate consistency in the implementation of this  
2 subdivision.

3 "The board shall seek to ensure that licensees are informed of the responsibility of licensees  
4 and others to follow infection control guidelines, and of the most recent scientifically recognized  
5 safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

6 "(m) The commission of verbal abuse or sexual harassment."

7 7. Section 2661 of the Code states:

8 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
9 charge of a felony or of any offense which substantially relates to the qualifications, functions, or  
10 duties of a physical therapist is deemed to be a conviction within the meaning of this article. The  
11 board may order the license suspended or revoked, or may decline to issue a license, when the  
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when  
13 an order granting probation is made suspending the imposition of sentence, irrespective of a  
14 subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or  
15 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
16 dismissing the accusation, information, or indictment."

17 8. Section 480 of the Code states:

18 "(a) A board may deny a license regulated by this code on the grounds that the applicant has  
19 one of the following:

20 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
21 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
22 board is permitted to take following the establishment of a conviction may be taken when the  
23 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
24 an order granting probation is made suspending the imposition of sentence, irrespective of a  
25 subsequent order under the provisions of Section 1203.4 of the Penal Code.

26 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
27 benefit himself or herself or another, or substantially injure another.

1       "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
2 would be grounds for suspension or revocation of license.

3       "(B) The board may deny a license pursuant to this subdivision only if the crime or act is  
4 substantially related to the qualifications, functions, or duties of the business or profession for  
5 which application is made.

6       "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
7 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
8 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
9 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
10 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
11 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
12 Section 482.

13       "(c) A board may deny a license regulated by this code on the ground that the applicant  
14 knowingly made a false statement of fact required to be revealed in the application for the  
15 license."

16       9.     Section 493 of the Code states:

17       "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
18 the department pursuant to law to deny an application for a license or to suspend or revoke a  
19 license or otherwise take disciplinary action against a person who holds a license, upon the  
20 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
21 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
22 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
23 and the board may inquire into the circumstances surrounding the commission of the crime in  
24 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
25 qualifications, functions, and duties of the licensee in question.

26       "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
27 'registration.'"

1       10. Section 2239, subdivision (a) of the Code states:

2       "The use or prescribing for or administering to himself or herself, of any controlled  
3 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
4 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
5 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
6 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
7 consumption, or self-administration of any of the substances referred to in this section, or any  
8 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
9 conclusive evidence of such unprofessional conduct."

10       11. California Code of Regulations, title 16, section 1399.20, states:

11       "For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5  
12 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially  
13 related to the qualifications, functions or duties of a person holding a license under the Physical  
14 Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a  
15 person to perform the functions authorized by the license or approval in a manner consistent with  
16 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
17 following:

18       "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
19 violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.

20       "(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with  
21 the practice of physical therapy.

22       "(c) Violating or attempting to violate any provision or term of the Medical Practice Act."

23       12. California Code of Regulations, title 16, section 1399.21, states:

24       "When considering the denial of a license, under Section 480 of the code or a petition for  
25 reinstatement under Section 11522 of the Government Code, the board, in evaluating the  
26 rehabilitation of the applicant and his or her present eligibility for a license shall consider the  
27 following criteria:  
28

1       "(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for  
2 denial.

3       "(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under  
4 consideration as grounds for denial which also could be considered as grounds for denial under  
5 Section 480.

6       "(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in  
7 subsections (a) or (b).

8       "(d) The extent to which the applicant has complied with any terms of parole, probation,  
9 restitution or any other sanctions lawfully imposed against the applicant.

10       "(e) Evidence, if any, of rehabilitation submitted by the applicant."

11                               FIRST CAUSE FOR DENIAL OF APPLICATION

12                                       (Convictions of Crimes)

13       13. Respondent's application is subject to denial under Code sections 2660, subdivision  
14 (d), and 480, subdivision (a) (1), in that he was convicted of crimes substantially related to the  
15 qualifications, functions, or duties of a physical therapist assistant. The circumstances are as  
16 follows:

17       October 19, 2011 Alcohol Conviction

18       14. On or about August 26, 2010, a volunteer with the Gardena Police Department  
19 witnessed Respondent drive a vehicle into a "driving under the influence" (DUI) checkpoint, stop  
20 the vehicle in the middle of the road, and switch seats with the passenger in the vehicle. Gardena  
21 police officers detained Respondent at the checkpoint, and asked him to exit the vehicle. The  
22 officers noticed that Respondent's breath had a strong odor of alcohol, and his eyes were watery.  
23 When he was asked if he had been drinking, Respondent admitted he had 3 beers. Respondent  
24 failed to successfully perform and complete field sobriety tests. The results of his Preliminary  
25 Alcohol Screening Test indicated his blood alcohol content was .13. Respondent refused to  
26 submit to a chemical test. Respondent was arrested for driving under the influence of alcohol, in  
27 violation of Vehicle Code section 23152, subdivision (a), and driving while having a .08% or  
28 higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b).

1       15. On or about November 18, 2010, in the matter entitled *The People of the State of*  
2 *California vs. Robert Edmund Kibby II*, in Los Angeles County Superior Court Case No.  
3 0SY090385, Respondent was charged with driving under the influence of alcohol or drugs, in  
4 violation of Vehicle Code section 23152, subdivision (a), a misdemeanor (Count 1), and driving  
5 with a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152,  
6 subdivision (b), a misdemeanor (Count 2).

7       16. On or about October 19, 2011, Respondent was found guilty by a jury of  
8 driving under the influence of alcohol or drugs, in violation of Vehicle Code section 23152,  
9 subdivision (a), a misdemeanor (Count 1), and of driving with a .08% or higher blood alcohol  
10 content, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).  
11 As to Counts 1 and 2, the jury found that Respondent did willfully refuse a peace officer's request  
12 to submit to, and willfully failed to complete the chemical tests of his blood or breath to  
13 determine the alcohol content of his blood.

14       17. On or about October 19, 2011, Respondent was sentenced as follows:  
15 As to Count 1, Respondent was placed on probation for four years under the following terms and  
16 conditions:

- 17       a. Serve 45 days in county jail;
- 18       b. Pay fines in the amount of \$390.00 or serve 13 days in custody;
- 19       c. Complete an 18-month second-offender alcohol program;
- 20       d. Not operate a motor vehicle with any measurable amount of alcohol in his  
21 blood system; and
- 22       e. Comply with standard terms and conditions of DUI probation.

23 The court stayed Count 2 of the complaint pursuant to Penal Code section 654.

24 **April 13, 2005 Alcohol Conviction**

25       18. On or about January 6, 2005, Respondent was arrested by the Los Angeles Sheriff's  
26 Department for driving under the influence of alcohol.

27       19. On or about January 31, 2005, in the matter entitled *The People of the State of*  
28 *California vs. Robert Kibby*, in Los Angeles County Superior Court Case No. 5LC00635,



1 Respondent was charged with driving under the influence of alcohol or drugs, in violation of  
2 Vehicle Code section 23152, subdivision (a), a misdemeanor (Count 1), and driving with a .08%  
3 or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a  
4 misdemeanor (Count 2). It was further alleged as to Counts 1 and 2, that Respondent had a prior  
5 conviction on August 3, 2000, for violating Vehicle Code section 23152, subdivisions (a) and (b).

6 20. On or about April 13, 2005, Respondent pled nolo contendere to driving with a .08%  
7 or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a  
8 misdemeanor (Count 2). Respondent was placed on probation for three years under the following  
9 terms and conditions:

- 10 a. Pay fines in the amount of \$1,899.00;
- 11 b. Perform 14 days of Cal Trans;
- 12 c. Complete an 18-month licensed second-offender alcohol program;
- 13 d. Restrict driving for 18 months;
- 14 e. Not operate a motor vehicle with any measurable amount of alcohol in his  
15 blood system; and
- 16 f. Comply with standard terms and conditions of DUI probation.

17 The Court dismissed Count 1 of the complaint due to plea negotiations.

18 **August 27, 2004 Reckless Driving Conviction Involving Alcohol**

19 21. On or about May 8, 2004, Respondent drove his pick-up truck west bound in an east  
20 bound lane on a road in Missoula, Montana, and forced a Missoula County Deputy Sheriff's  
21 vehicle off the road. Respondent then drove across the yellow center line in the road, and cut off  
22 another vehicle by driving into his lane. The deputy sheriff initiated an enforcement stop.  
23 Respondent had difficulty maintaining his balance when he exited his vehicle. He was unable to  
24 satisfactorily perform the field sobriety tests. The results of his breath test indicated his blood  
25 alcohol level was .214. The officer arrested Respondent for a second offense driving under the  
26 influence of alcohol, and for reckless driving.

27 22. On or about May 10, 2004, in the matter entitled *State of Montana vs. Robert Edmund*  
28 *Kibby III*, in the Justice Court of the State of Montana, County of Missoula Case No. 0423-05921,

1 Respondent was charged with driving under the influence of alcohol or drugs, second offense, in  
2 violation of Montana Code Annotated sections 61-8-401 and 61-8-722, a misdemeanor (Count 1),  
3 and reckless driving, in violation of Montana Code Annotated section 61-8-301, subdivision  
4 (1)(b), a misdemeanor (Count 2).

5 23. On or about August 27, 2004, Respondent was found guilty by a jury of the crime of  
6 reckless driving, a violation of Montana Code Annotated section 61-8-301, subdivision (1)(b), a  
7 misdemeanor (Count 2). The Court ordered a suspended sentence upon payment of a fine, and  
8 completion of the ACT (Assessment, Course and Treatment) program. The Court ordered  
9 Respondent to complete the ACT program based on evidence admitted at trial that Respondent  
10 had a blood alcohol level of .214 at the time of the incident.

11 **January 13, 2003 Public Urination Conviction**

12 24. On or about October 26, 2002, Inglewood Police Department Officers responded to  
13 an incident regarding an intoxicated citizen on an MTA bus. When the officers arrived on the  
14 scene, the MTA bus was stopped, and Respondent was urinating on the wall of Manchester  
15 Boulevard in public view of about 30 passengers and his six year-old daughter. Upon contact  
16 with Respondent, the officers noticed Respondent had a strong odor of alcohol on his breath and  
17 person, he could not stand without assistance, his speech was extremely slurred, his eyes were red  
18 and bloodshot, and his face was flushed. Respondent was arrested for public intoxication, in  
19 violation of Penal Code section 647, subdivision (f), and urinating in public, in violation of 7-3.1  
20 of the Inglewood Municipal Code. Respondent was non-compliant and refused to step into the  
21 patrol vehicle. The officers requested assistance from an additional patrol unit. During a search  
22 of Respondent, the officers retrieved a half-full 6-ounce bottle of cognac in the front pocket of his  
23 fanny pack.

24 25. On or about December 3, 2002, in the matter entitled *The People of the State of*  
25 *California vs. Robert Kibby*, in Los Angeles County Superior Court Case No. 2IW02519,  
26 Respondent was charged with urinating in public, a violation of Municipal Code section 7-3.1, a  
27 misdemeanor (Count 1), and public intoxication, a violation of Penal Code section 647,  
28 subdivision (f), a misdemeanor (Count 2).

1       26. On or about January 13, 2003, Respondent pled nolo contendere to urinating in  
2 public, a violation of Municipal Code section 7-3.1, a misdemeanor (Count 1). Respondent was  
3 placed on probation for one year under the following terms and conditions:

- 4           a. Serve 3 days in county jail;
- 5           b. Pay fines in the amount of \$236.34;
- 6           c. Perform 1 day of Cal Trans in lieu of jail or fine;
- 7           d. Complete 10 Alcoholics Anonymous meetings; and
- 8           e. Obey all laws and orders of the Court.

9 The Court dismissed Count 2 of the complaint in furtherance of justice.

10 **August 31, 2000 Alcohol Conviction**

11       27. On or about August 3, 2000, Respondent was arrested by Los Angeles Police  
12 Department Officers for driving under the influence of alcohol.

13       28. On or about August 16, 2000, in the matter entitled *The People of the State of*  
14 *California vs. Robert Edmund Kibby II*, in Los Angeles County Superior Court Case No.  
15 OMT08779, Respondent was charged with driving under the influence of alcohol or drugs, in  
16 violation of Vehicle Code section 23152, subdivision (a), a misdemeanor (Count 1), and driving  
17 with a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152,  
18 subdivision (b), a misdemeanor (Count 2). It was also alleged that Respondent had a prior  
19 conviction on March 25, 1997 for driving with a .08% or higher blood alcohol content, in  
20 violation of Vehicle Code section 23152, subdivision (b).

21       29. On or about August 31, 2000, Respondent pled nolo contendere to driving with a  
22 .08% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision  
23 (b), a misdemeanor (Count 2). Respondent was placed on probation for five years under the  
24 following terms and conditions:

- 25           a. Serve 30 days in county jail;
- 26           b. Pay fines in the amount of \$1,395.00, or serve 13 days in custody, or perform  
27           13 days of Cal Trans, or perform 183 hours of community service;
- 28           c. Complete an 18-month multiple offender drinking driver program;

- d. Restrict driving for 18 months;
- e. Make restitution to the victim;
- f. Not operate a motor vehicle with any measurable amount of alcohol in his blood system; and
- g. Comply with standard terms and conditions of DUI probation.

The Court dismissed Count 1 of the complaint in furtherance of justice.

**March 25, 1997 Alcohol Conviction**

30. On or about March 25, 1997, Respondent was arrested by California Highway Patrol Officers for driving under the influence of alcohol.

31. On or about March 25, 1997, in the matter entitled *The People of the State of California vs. Robert Edmund Kibby II*, in Los Angeles County Municipal Court Case No. 7MT02773, Respondent was charged with driving under the influence of alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor (Count 1), and driving with a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

32. On or about March 25, 1997, Respondent pled nolo contendere to driving with a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2). Respondent was placed on probation for three years under the following terms and conditions:

- a. Pay fines in the amount of \$1,241.00, or serve 13 days in custody, or perform 12 days of Cal Trans;
- b. Restrict driving for 90 days;
- c. Complete 26 Alcoholics Anonymous meetings;
- d. Do not drive with any measurable amount of alcohol or drugs in his blood, nor refuse to complete a blood alcohol/drug chemical test and field sobriety test if requested by any peace officer; and
- e. Comply with standard terms and conditions of DUI probation.

The Court noted that Respondent's blood alcohol content was .15%.

1 The Court dismissed Count 1 of the complaint in furtherance of justice.

2 **March 12, 1987 Robbery Conviction**

3 33. On or about October 26, 1986, Respondent and another male suspect entered a  
4 restaurant, demanded money from the victim, an employee of the restaurant at gunpoint, and fled  
5 with the money. The facts and circumstance are as follows: Respondent ordered some food and  
6 held out a \$5.00 bill as if to pay for the food. When the victim opened the register to make  
7 change, Respondent said, "Give me the drawer, give me all the money." The victim looked up  
8 from the register and saw the other suspect pull a sawed-off 12 gauge shotgun from the armpit of  
9 his jacket and point the gun at the victim. The victim gave the cash drawer to Respondent who  
10 reached into the register and removed about \$300.00. The other suspect forced the victim to  
11 remove money from the safe. The victim opened the safe and handed over a bag containing about  
12 \$300.00. Respondent and the other suspect then fled from the restaurant and drove away.  
13 Torrance Police Department Officers responded to the incident. The officers arrested Respondent  
14 at his residence during service of a search warrant, and charged him with robbery, in violation of  
15 Penal Code section 211.

16 34. On or about October 30, 1986, in the matter entitled *The People of the State of*  
17 *California vs. Robert Edmund Kibby II*, in the Los Angeles County Municipal Court, Torrance  
18 Courthouse Judicial District, Case No. A916888, Respondent was charged with three counts of  
19 robbery, in violation of Penal Code section 211, a felony (Counts 1-3). The complaint was later  
20 amended to add three additional counts of robbery in violation of Penal Code section 211, a  
21 felony (Counts 4-6).

22 35. On or about February 10, 1987, Respondent pled guilty to robbery, in violation of  
23 Penal Code section 211, a felony (Counts 1-4).

24 36. On or about March 12, 1987, Respondent was sentenced to ten years in state prison.  
25 The Court dismissed Counts 5 and 6 of the complaint.

26 **SECOND CAUSE FOR DENIAL OF APPLICATION**

27 (Habitual Intemperance)  
28

1       37. Respondent's application is subject to denial under Code section 2660, subdivision  
2 (e), in that he is habitually intemperate. Respondent has been convicted and/or arrested multiple  
3 times for being under the influence of alcohol for at least the past fourteen years from 1997 to  
4 2011. The facts and circumstances in the Second Cause for Denial, Paragraphs 14 through 33 are  
5 incorporated here by reference.

6                   THIRD CAUSE FOR DENIAL OF APPLICATION

7                   (Violation of Medical Practice Act - Excessive Use of Alcohol)

8       38. Respondent's application is subject to denial under Code section 2660, subdivision (h)  
9 in conjunction with Code section 2239 in that Respondent violated the Medical Practice Act,  
10 more particularly Code section 2239, by using alcoholic beverages to the extent, or in such a  
11 manner, as to be dangerous or injurious to himself, another person, or the public, and by  
12 committing more than one misdemeanor involving the use of alcohol. The facts and  
13 circumstances in the Second Cause for Denial, Paragraphs 14 through 33 are incorporated here by  
14 reference.

15                   FOURTH CAUSE FOR DENIAL OF APPLICATION

16                   (Commission of a Fraudulent, Dishonest, or Corrupt Act)

17       39. Respondent's application is subject to denial under Code section 2660, subdivision  
18 (k), and Code section 480, subdivision (a) (2), in that he committed a fraudulent, dishonest, or  
19 corrupt act that is substantially related to the qualifications, functions, or duties of a physical  
20 therapist assistant. The facts and circumstances in the Second Cause for Denial, Paragraphs 34  
21 through 37 are incorporated here by reference.

22                   LICENSING CONSIDERATIONS

23                   (Ineligible for a License)

24       40. Respondent's license application is subject to ineligibility under Code section  
25 2636, subdivision (a) (1) and (2). Respondent has not successfully passed the California Law  
26 Examination, and he has not successfully passed the National Physical Therapy Examination for  
27 Physical Therapist Assistants.

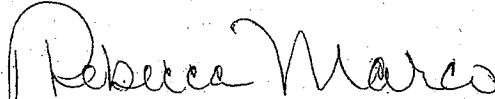
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Denying the application of Robert Edmund Kibby II for a Physical Therapist Assistant License;
2. Taking such other and further action as deemed necessary and proper.

DATED: September 12, 2012



REBECCA MARCO  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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